

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 375 and 376

(Docket No. RM03-7-000; Order No. 632)

Delegations of Authority

(Issued May 7, 2003)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations on delegations of authority to reflect changes in the Commission's internal structure. Specifically, the Commission is duplicating existing authorities delegated to the Offices of Markets, Tariffs and Rates and General Counsel for the newly formed Office of Market Oversight and Investigations (OMOI). Granting such delegations of authority to OMOI will better enable it to perform its market monitoring responsibilities.

EFFECTIVE DATE: This final rule is effective upon issuance.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Delegations of Authority

Docket No. RM03-7-000

ORDER NO. 632

FINAL RULE

(Issued May 7, 2003)

1. The Federal Energy Regulatory Commission (Commission) is amending 18 CFR Parts 375 and 376 to duplicate certain existing delegations to two Commission office directors for a third office director and to make related changes in connection with changes in the Commission's internal structure. These changes came about as a result of the formation of the Office of Market Oversight and Investigations (OMOI). By this order, the Commission is not revising or expanding existing delegations of authority.<sup>1</sup>

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<sup>1</sup>Existing delegations of authority were promulgated in a series of rule makings initiated in 1978. See Delegations to Various Office Directors of Certain Commission Authority, 43 FR 36433 (Aug. 17, 1978), FERC Stats. & Regs. Preambles 1977-1981 ¶ 30,016 (1978); Chief Accountant, et al., Delegation of Authority; Final Regulation, Order No. 38, 44 FR 45449 (Aug. 8, 1979), FERC Stats. & Regs. Preambles 1977-1981 ¶ 30,068 (1979), reh'g denied, 8 FERC ¶ 61,299 (1979); Delegation of the Commission's Authority to the Directors of Office of Electric Power Regulation, Office of the Chief Accountant, and Office of Pipeline and Producer Regulation, Order No. 147, 46 FR 29700 (June 3, 1981), FERC Stats. & Regs. Preambles 1977-1981 ¶ 30,259 (1981); Delegation of Authority, Order No. 224, 47 FR 17806 (April 26, 1982), FERC

(continued...)

2. In order to better understand natural gas, oil and power markets and to swiftly remedy market rule violations and abuse of market power, the Commission created OMOI, which became a formal, functioning office within the Commission in August 2002. OMOI serves as an early warning system to alert the Commission when market problems develop, and allows the Commission to analyze and address any problems more quickly. OMOI has begun an aggressive program of outreach to a wide variety of entities including other federal, state and provincial regulatory agencies, state consumer advocates, industry participants, academic institutions and think tanks, financial institutions (such as rating agencies), and Market Monitoring Units at Regional Transmission Organizations and Independent System Operators.

3. The formation of the new office implicates certain functions currently being performed under delegated authority by the Office of Market, Tariffs and Rates (OMTR) or by the Office of General Counsel (OGC). For example, currently the Director of OMTR has delegated authority to sign non-financial audit reports of jurisdictional companies, a

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<sup>1</sup>(...continued)

Stats. & Regs. Preambles 1982-1985 ¶ 30,356 (1982); Regulations Delegating Authority, Order No. 492, 53 FR 16058 (May 5, 1988), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,814 (1988); Streamlining Commission Procedures for Review of Staff Action, Order No. 530, 55 FR 50677 (May 5, 1988), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,906 (1990), reh'g denied, Order No. 530-A, 56 FR 4719 (Feb. 6, 1991), FERC Stats. & Regs.] Preambles 1991-1996 ¶ 30,914 (1991); Delegation of Authority to the Secretary, the Director of the Office of Electric Power Regulation, and the General Counsel, Order No. 585, 60 FR 62326 (Dec. 6, 1995), FERC Stats. & Regs. Preambles January 1991-June 1996 ¶ 31,030 (1995); Delegation of Authority, Order No. 613, 64 FR 73403 (Dec. 30, 1991), FERC Stats. & Regs. Preambles July 1996-December 2000 ¶ 31,087 (1999).

function which the Director of OMOI may also need so that OMOI employees are able to perform their market monitoring duties. Likewise, the General Counsel is currently authorized to terminate any informal non-public investigation, a function which the director of OMOI needs so that his enforcement staff may handle their workload efficiently. This rule duplicates those authorities by adding Section 314 to

Part 375 of Title 18 of the Code of Federal Regulations, and, as noted, creates no new delegations. In addition, this rule corrects the structure of § 375.303(a), corrects a reference to paragraph numbers in § 375.307(f), changes the nomenclature of the Office of Finance and Accounting in § 375.312, and revises § 376.204(b)(2) to include the Director of OMOI on the list of Commission staff delegations of authority during an emergency.

4. Specifically, the existing delegations are being revised as follows:

**PART 375**

**Office of the Chief Accountant (existing § 375.303).** The paragraph structure of this section is corrected.

**Office of Markets, Tariffs and Rates (existing § 375.307).** Delegations in paragraphs (a), (c), (d), (g)(4), (h)(1), (i)(8) and (n)(3) are duplicated in paragraphs (i), (j), (k), (g), (e), (f) and (h) of new § 375.314, respectively. A reference to paragraph numbers "(b)(1) or (b)(2)" is corrected to read "(f)(1) or (f)(2)."

**Office of the General Counsel (existing § 375.309).** Delegations in paragraphs (a), (b), (c) and (d) are duplicated in paragraphs (b), (c), (d), and (b) of new § 375.314, respectively.

**Office of the Finance, Accounting and Operations (existing § 375.312).** The nomenclature for this office is changed to the Office of the Executive Director.

**PART 376**

Part 376 governs the Commission's organization and its operations during emergency conditions. This rule making amends the list of officials authorized to conduct operations during emergency conditions to include the position of Director, OMOI, and replaces references to the former position of Director, OFAO, with the Executive Director in § 376.204(b)(2).

5. The Commission is issuing this order as a final rule without a period for public comment or delay in the effective date. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of internal agency procedure and will not affect regulated entities or the general public. Therefore, the Commission finds notice and comment procedures to be unnecessary.

## **INFORMATION COLLECTION STATEMENT**

6. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule. 5 C.F.R. 1320.12. This rule making contains no information collections and OMB review is therefore not required.

## **ENVIRONMENTAL ANALYSIS**

7. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>2</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Among these are rules that are clarifying, corrective, or procedural, or that do not substantively change the effect of the regulations being amended. 18 CFR 380.4(a)(2)(ii). This rule is procedural in nature and therefore falls under this exception; consequently, no environmental consideration is necessary.

## **REGULATORY FLEXIBILITY ACT CERTIFICATION**

8. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. 5 U.S.C. 601-612. The Commission is not required to make such analysis if

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<sup>2</sup> Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

a rule would not have such an effect. Because this rule concerns only matters of internal agency procedure, the Commission certifies that it will have no impact upon any entity other than the Commission.

## **DOCUMENT AVAILABILITY**

9. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

10. From FERC's Home Page on the Internet, this information is available in the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and WordPerfect format for viewing, printing, or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

11. User assistance is available for FERRIS and the FERC's website during normal business hours from our Help line at (202) 502-8222 or the Public Reference Room at (202) 502-8371 Press 0, TTY (202) 502-8659. E-Mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

## **EFFECTIVE DATE AND CONGRESSIONAL NOTIFICATION**

12. These regulations are effective on issuance. The Commission has determined that a delayed effective date for this final rule is unnecessary pursuant to 5 U.S.C. 553(d).

Because the rule concerns only matters of internal agency procedure, the immediate implementation of the rule imposes no consequences to regulated entities or the general public, and any further delay could compromise the effective operation of the new office. Therefore, the Commission finds good cause for waiving the 30 day delay before the effective date of this final rule.

13. The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates. 5 U.S.C. 801. Rules of agency procedure and practice are excluded from this notification requirement. 5 U.S.C. 804(3)(C). Therefore, this final rule will not be submitted to Congress.

### List of Subjects

#### 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.



18 CFR Part 376

Civil defense, Organization and functions (Government agencies).

By the Commission.

(S E A L)

Magalie R. Salas,  
Secretary.

In consideration of the foregoing, the Commission amends Parts 375 and 376,  
Chapter I, Title 18, Code of Federal Regulations, as follows:

**PART 375—THE COMMISSION**

1. The authority citation for Part 375 continues to read as follows:

AUTHORITY: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-  
825r, 2601-2645; 42 U.S.C. 7101-7352.

2. In § 375.303, introductory text is added and paragraph (a) is revised to read as follows:

**§ 375.303 Delegations to the Chief Accountant.**

The Commission authorizes the Chief Accountant or the Chief Accountant's  
designee to:

- (a) Issue interpretations of the Uniform System of Accounts for public  
utilities, licensees, natural gas companies and oil pipeline companies.

\* \* \* \* \*

3. In § 375.307, paragraph (f)(3) is revised to read as follows:

**§ 375.307 Delegations to the Director of the Office of Markets, Tariffs and  
Rates.**

\* \* \* \* \*

- (f) \* \* \*

(3) Advise the filing party of any actions taken under paragraph (f)(1) or (f)(2) of this section and designate rate schedules, rate schedule changes, and notices of changes in rates, and the effective date hereof.

\* \* \* \* \*

4. In § 375.312, the title and the introductory text are revised to read as follows:

**§ 375.312 Delegations to the Office of the Executive Director.**

The Commission authorizes the Executive Director or the Executive Director's designee to:

\* \* \* \* \*

5. Section 375.314 is added to read as follows:

**§ 375.314 Delegations to the Director of the Office of Market Oversight and Investigation.**

The Commission authorizes the Director or the Director's designee to:

(a) Request information for purposes of a preliminary investigation under Part 1b of this chapter, or for purposes of conducting market surveillance from an entity whose activities may affect energy markets, and from state or federal agencies that monitor or regulate such entities, whether or not subject to the Commission's jurisdiction.

(b) Designate, and terminate the authority of, officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and responses to interrogatories, gather information, and require the production of any books, papers, correspondence,

memoranda, contracts, agreements, or other records, in the course of formal investigations conducted by the Office of Market Oversight and Investigation, to the extent the Commission's order of investigation expressly provides for the exercise of such investigative powers.

(c) Grant or deny requests of persons pursuant to Sec. 1b.12 of this chapter to procure copies of the transcripts of their testimony taken during non-public investigations conducted by the Office of Market Oversight and Investigation.

(d) Terminate any informal non-public investigation conducted by the Office of Market Oversight and Investigation.

(e) Issue reports for public information purposes. Any report issued without Commission approval must

(1) Be of a non-controversial nature, and

(2) Contain the statement, "This report does not necessarily reflect the view of the Commission," in bold face type on the cover.

(f) Deny or grant, in whole or in part, requests for waiver of the requirements for particular forms, including Electric Quarterly Reports required under Sec. 35.10b of this chapter.

(g) Take appropriate action on applications for extensions of time to file required reports, data and information, and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or by order of the Commission.

(h) Undertake the following action with respect to data and reports submitted pursuant to Commission opinions or orders:

(1) Accept for filing data and reports that are in compliance and, when appropriate, notify the filing party of such acceptance;

(2) Reject for filing any data and reports which are not in compliance or not required and, when appropriate, notify the filing party of such rejection, or

(3) Issue deficiency letters regarding such data or reports.

(i) Sign all correspondence on behalf of the Commission with state regulatory commissions and agencies in connection with non-financial auditing matters.

(j) Sign non-financial audit reports of jurisdictional companies,

(1) If the company agrees with the audit report, or

(2) If the company does not agree with the audit report, provided that any notification of the opportunity for a hearing required under Section 301(a) of the Federal Power Act or Section 8(a) of the Natural Gas Act accompanies the audit report.

(k) Act upon requests by state and federal agencies to review staff audit working papers in connection with non-financial audits if the company agrees to the release of the audit working papers, and provided that:

(1) The papers are examined at the Commission; and

(2) The requester

(i) Only makes general notes concerning the contents of the audit working papers,

- (ii) Does not make copies of the audit working papers, and
- (iii) Does not remove the audit working papers from the area designated by the

Director.

**PART 376—ORGANIZATION, MISSION, AND FUNCTIONS: OPERATIONS  
DURING EMERGENCY CONDITIONS**

6. The authority citation for Part 376 continues to read as follows:

AUTHORITY: 5 U.S.C. 553; 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978

Comp., p. 142.

7. In § 376.204, paragraphs (b)(2)(i), and (b)(2)(v) and (b)(2)(x) are revised to read as follows:

**§ 376.204 Delegation of Commission's authority during emergency**

**conditions.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) the Executive Director ;

\* \* \* \* \*

(v) Director of the Office of Market Oversight and Investigations

\* \* \* \* \*

(x) Assistant Directors and Division heads, Office of Markets, Tariffs and Rates;  
Assistant Directors and Division heads, Office of Energy Projects; Assistant General  
Counsels; and Assistant Directors and Division heads, Office of Market Oversight and  
Investigations; in order of seniority.

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